

USN 10/066,595
Art Unit: 1723

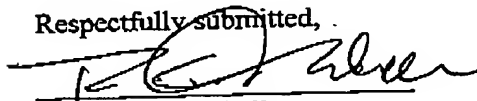
Remarks

The conditional allowance of claims 13 and 17 is noted with appreciation. Claim 13 has been amended into independent form, and the features of former claim 17 have been incorporated in claim 1.

The applicants do not however agree with the Examiner's characterization of the functional aspects of former claim 12 as relating to acts to be performed. If a structural element is recognizable as such and distinguishable from another structure to a person of ordinary skill in the art, it can be properly relied on as a claim limitation. A pump configured to operate cyclically is recognizable as such and clearly distinguishable from a pump configured to operate continuously. Such a limitation is not a statement of intended use, but a proper characterization of a claim element. If an applicant discovers a novel method that involves supplying a fluid intermittently, the applicant can properly claim the apparatus counterpart to this method in terms of a novel combination of elements that achieve this result. The individual elements do not have to be *per se* novel. That is trite patent law. The patentability of the novel combination flows from the discovery of the underlying method. Without a knowledge of the underlying method, it would not be obvious to combine the old elements in the novel manner because there would be no purpose in so doing.

It is believed that the application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,



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